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UNITED STATES DISTRICT COURT

IN AND FOR THE SOUTHERN DISTRICT OF NEW JERSEY

08-605 (DMC)

Antolin Andrew Marks,

Plaintiff ,

vs.

Michael Melendez

Defendant.

Case No.

SUIT FOR DAMAGES UNDER
CONSTITUTION OF NEW MEXICO
STATE, NEW MEXICO CIVIL CODES
AND REVISED CODES

FOR: DENIAL OF DUE PROCESS
GUARANTEED BY THE FIFTH
AMENDMENT

For: 780,000. JURY TRIAL
DEMANDED

FACTS

1. The Plaintiff is currently held by Immigration and Custom Enforcement Agency. He is held at the Northwest Detention Center headed by ICE. Plaintiff brings this Complaint to the Court because his rights have been violated, deliberately violated by Immigration and Customs Enforcement, a arm of the Government that does business in this District, and seeks damages against the actions that injure the Plaintiff. Plaintiff claims that Michael Melendez, an employee of ICE has violated his rights as follows and stands liable to the Plaintiff as set forth herein. Michael Melendez lives and works in New Jersey and the court has jurisdiction over his person.

CLAIM ONE

VIOLATION OF THE RIGHT TO PETITION

2. Although Plaintiff is not a prisoner, even prisoners have a First Amendment right to be free from certain interference with their "legal" mail. Wolff v. McDonnell, 418 U.S. 539, 577, 94 S. Ct. 2963, 41 L. Ed. 2d 935 (1974); Watson v. Cain, 846 F. Supp. 621, 626 (N.D. Ill. 1993); see also Turner v. Safley, 482 U.S. 78, 84, 107 S. Ct. 2254, 96 L. Ed. 2d 64 (1987). Therefore, prison officials may only inspect, not read, certain types of legal mail in the presence of the inmate. Wolff, 418 U.S. at 577; Bach v. People of State of Illinois, 504 F.2d 1100, 1102 (7th Cir. 1974); cert. denied, 418 U.S. 910, 94 S. Ct. 3202, 41 L. Ed. 2d 1156 (1974). For example, correspondence between an inmate and an attorney (even a potential attorney or legal representative) is deemed confidential and therefore must be opened in the presence of the inmate. Wolff, 418 U.S. at 577; Bach, 504 F.2d at 1102; Watson, 846 F. Supp. at 629, 631.

3. Likewise, the Plaintiff has the right to his privileges and immunities as a citizen of the United States, Twining v. New Jersey, 211 U.S. 78, 53 L. Ed. 97, 29 S. Ct. 14 (1908). Twining gave these examples of privileges and immunities of national citizenship, viz.:

4. "The right to pass freely from state to state"; "the right to petition Congress for a redress of grievances"; "the right to vote for national officers"; "the right to enter the public

1 lands"; "the right to be protected against violence while in
2 the lawful custody of a United States marshal." 211 U.S. at
3 97. See also, United States v. Cruikshank, 92 U.S. 542, 553,
4 (23 L.Ed. 588; Crandall v. Nevada, 73 U.S. (6 Wall.) 35, 18 L.
5 Ed. 745 (1867). It is the claim of the Plaintiff that ICE, has
6 denied him the twin rights of the right to petition the
7 government secured to him by the First Amendment and the right
8 to seek redress.

9 **5.** First, the Plaintiff claims that it is unquestionable that
10 he has a right to Petition Congress under the First Amendment.
11 The question here is whether the Petitioner here has a right
12 to have the Government Agency that holds him pay for the
13 postage of the mail that he has submitted for delivery to
14 Congress where he is an immigration detainee who seeks a
15 private bill to his benefit for assistance in his immigration
16 case. It is the claim of the Plaintiff that he has an
17 unqualified right to petition the Congress of the United
18 States.

19 **6.** We begin with the fact that the Plaintiff is an immigration
20 detainee being held by the government. He is indigent and has
21 submitted letters to be delivered to Congress because the
22 Immigration and Naturalization Act contemplates the fact that
23 Congress can grant relief to any immigration detainee through
24 a private bill. As such, the Plaintiff must Petition Congress
25

1 and Petition each member of Congress for a private bill which
2 would alleviate the conditions of his confinement.

3 **7.** On or about February 2nd, 2007 the Plaintiff provided to
4 Immigration and Customs Enforcement a document that sought
5 that the document be copied. This document included a letter
6 to the members of Congress who are Democrats, a copy of the
7 Visa Application for Rudder, Wayne, a scan of four pictures
8 showing the Plaintiff at the age of 19, one document showing
9 Rudder at the age of 14, and the exact same documents to the
10 Senators who are Democrats and Independents. Immigration and
11 Customs Enforcement refused to copy the letters stating that
12 it was unreasonable for the Plaintiff to seek copies of the
13 letters. Nonetheless, the Plaintiff received the letters and
14 ultimately presented 285 letters to be mailed to Congress.
15 After substantial resistance, over a period of a month, the
16 letters were purportedly sent. Yet, it is the date of June 29,
17 2007, 120 days later, and not one single response has come
18 from those letters. None of the letters have been returned and
19 this leads the Plaintiff to believe that Immigration and
20 Customs Enforcement, did not mail the letters as he stated he
21 did. It is the Plaintiff's belief that the letters were not
22 sent by Immigration and Customs Enforcement as it stated and
23 Immigration and Customs Enforcement is charged here with
24 deliberately infringing upon the Plaintiff's right to seek to
25 Petition Congress.

1 **8.** Thus, on the date of June 10th, 2007 the Plaintiff spoke to
2 the Postmaster of the Tacoma Mail Office. That individual
3 informed the Plaintiff to resubmit the letters for mailing and
4 he would keep an eye out to determine whether or not the mail
5 was being sent. Immigration and Customs Enforcement has been
6 very adept at listening to conversations on the telephone and
7 acting on what they hear. Thus, on the date 6-28-07 the
8 Plaintiff prepared another 285 letters-one for each Democrat
9 in Congress and one for each Democrat in the Senate, plus the
10 two independents, and submitted them for mailing. In the
11 follow-up letters presented for mailing the Plaintiff
12 questioned why he had not been granted any responses to the
13 previous letters. Because the Plaintiff must submit the
14 letters for copying to Immigration and Customs Enforcement,
15 there is no question that Immigration and Customs Enforcement,
16 read the letters and then realized that the Plaintiff was
17 questioning why his mail had not been responded to. Thus, on
18 the date of 6-28-07 Immigration and Customs Enforcement stated
19 that the letters would not be mailed. What Immigration and
20 Customs Enforcement stated was the following:

21 **9.** "You receive postage of all legal mail to the Courts. The
22 documents to Congress are not legal and they are special
23 correspondence. You are hereby limited to five pieces of
24 special correspondence per week." Thereby, Immigration and
25 Customs Enforcement, stated that he was not going to send the

1 letters to Congress in any timely manner, meaning that it
2 would take Plaintiff a full year, one month and one week to
3 send all the letters to Congress that he wishes to send. The
4 question regarding this part of the suit is whether the
5 actions of Immigration and Customs Enforcement qualifies as a
6 violation of the right to petition.

7 **10.** More than the right to petition, the Plaintiff claims
8 that the mail should have been sent as a first matter because
9 it was "Legal Mail" and the Supreme Court has held that the
10 facilities that hold individuals must bear the cost of the
11 postage where the postage is legal mail.

12 **11.** The first question that must be answered then is
13 whether the mail qualified as legal mail and whether the mail
14 should have been regarded as legal mail, and whether
15 Immigration and Customs Enforcement, should have known that
16 the mail was legal and that the Plaintiff had a legal right to
17 send the mail. Plaintiff is unaware of a written definition of
18 the term "legal mail," but here the Plaintiff will state that
19 where the mail states clearly that it is legal mail, and it is
20 directed to a party who can have an impact, good or bad over
21 the conditions of confinement or the confinement of the
22 person, then the mail must be considered legal mail.

23 **12.** In this case, the mail to Congress clearly meets the
24 definition of legal mail. First, a person wishing to have a
25 private relief bill introduced must, of course, persuade a

1 member of Congress that he or she has a meritorious claim for
2 relief. If the Senator or Representative believes the matter
3 merits legislative consideration, the member of Congress
4 introduces the private bill for the relief of a named
5 individual or individuals. The bill is referred to the
6 Judiciary Committee of the house of Congress in which it is
7 introduced. Most such bills are introduced in the House of
8 Representatives. Note, Private Bills In Congress, 79 Harv. L.
9 Rev. 1684, 1688 (1966). The Senate rules of procedure for
10 private immigration bills are generally less formal than those
11 of the House. Any private bill request must include basic
12 biographical information on the proposed beneficiary. The
13 requisite composition of a private bill request varies
14 slightly based upon the status of the proposed beneficiary.
15 Subcomm. on Immigration, Senate Judiciary Comm., 105th Cong.,
16 Rules of Procedure: Private Immigration Legislation 1 (1999).
17 Having located the fact that there is the possibility that
18 Congress and the Senate can act on a person's immigration
19 matter and grant relief, the question becomes does the person
20 have the right to petition Congress for the relief he seeks
21 and does that right bear the protection of the Constitution?

22 **13.** Plaintiff here claims that he has a right to Petition
23 Congress, a secondary right to seek relief under the private
24 bill and has a right to transmit that information to Congress
25 because he must persuade a member of Congress to introduce

1 such legislation to award relief. In order to gain the ear of
2 Congress, the Plaintiff must be able to write the letter or
3 the submission to the member of Congress and he must be
4 assured that the letter he writes will actually be transmitted
5 to Congress. Plaintiff first states that for Immigration and
6 Customs Enforcement to state that he will not mail the letter
7 to Congress is a violation of the right to petition, the right
8 to send legal mail, and the right to seek redress, and a
9 violation of due process under the Fifth Amendment and the
10 First Amendment.

11 **14.** In support of the right, ICE National Standards which
12 state, "Indigent detainees will be permitted to mail the
13 following at government expense: 1. All correspondence related
14 to a legal matter, including correspondence to a legal
15 representative, potential legal representative and any court."
16 It is clear here that the letters to Congress constituted
17 legal mail as they were "correspondence related to a legal
18 matter", where that legal matter is the Plaintiff's
19 immigration matter.

20 **15.** Further, the Standards state, "Special correspondence"
21 is the term for detainees' written communications to or from
22 private attorneys and other legal representatives, government
23 attorneys, judges, courts, embassies and consulates, the
24 president and vice president of the United States, members of
25 Congress, the Department of Justice (including INS and Office

1 of the Inspector General), the U.S. Public Health Service,
2 administrators of grievance systems, and representatives of
3 the news media." Thus, the mail to Congress was guaranteed to
4 be sent due to the fact that it is special correspondence
5 related to a legal matter. As the ICE Standards establish the
6 right that the Plaintiff has to mail his letters to Congress,
7 Immigration and Customs Enforcement erred when he failed to
8 allow the letters to be mailed.

9
10
11 **PRIVATE BILL BY CONGRESS OR THE SENATE**

12 **16.** Initially, the Attorney General had no discretion in
13 ordering deportation, and an alien's sole remedy was to obtain
14 a private bill from Congress. See Foti v. INS, 375 U.S. 217,
15 222 (1963). The first measure of statutory relief was included
16 in the Alien Registration Act of 1940, 54 Stat. 670. Under the
17 statutory predecessor of § 244, suspension of a deportation
18 order could be granted only if the alien demonstrated
19 "exceptional and extremely unusual hardship." Immigration and
20 Nationality Act of 1952, § 244 (a)(1), Pub. L. 414, 66 Stat.
21 214. This provision was amended to require that the alien show
22 that deportation would result in "extreme hardship," Act of
23 Oct. 24, 1962, Pub. L. 87-885, § 4, 76 Stat. 1248.

24 **17.** The federal immigration laws are exceedingly complex.
25 See Lok v. INS, 548 F.2d 37, 38 (2d Cir. 1977) (federal

1 immigration laws bear "striking resemblance . . . to . . .
2 King Minos' labyrinth in ancient Crete."). The INA enumerates
3 thirty-three general categories of people who may not enter
4 the United States. See 8 U.S.C. § 1182. Deportable persons can
5 come from these or nineteen other categories. See 8 U.S.C. §
6 1251. Beyond this, the INA provides for many circumstances
7 which prevent a "deportable alien" from actual deportation.
8 See 8 U.S.C. § 1254 (petition to suspend deportation); 8
9 U.S.C. § 1158 (political asylum); 8 U.S.C. § 1255 (adjustment
10 to lawful permanent resident status); INS O.I. § 242(a)(22)
11 (deferred action status). Deportation cases may be reopened on
12 petition to consider evidence previously unavailable, or an
13 Immigration Judge or the Board of Immigration Appeals may
14 reopen the case sua sponte. See 8 C.F.R. §§ 3.22, 242.22. A
15 final administrative order of deportation can be stayed by the
16 district director, 8 C.F.R. § 243.4, by a private bill in
17 Congress, INS O.I. § 107.1, or if departure is "prejudicial to
18 the interests of the United States," 8 C.F.R. § 215.3. All
19 these determinations are appealable to the BIA, the Circuit
20 Courts of Appeals and, potentially, to the Supreme Court. See
21 8 U.S.C. § 1105a(a) (review of deportation decisions may be
22 had in federal appellate court); 8 C.F.R. § 3.1(b) (appellate
23 jurisdiction of 314).

24 **18.** Because of this skein of provisions, there is no
25 assurance that a (person) subject to deportation will ever be

1 deported. An illegal entrant might be granted federal
2 permission to continue to reside in this country, or even to
3 become a citizen. In light of the discretionary federal power
4 to grant relief from deportation, [a governmental authority]
5 cannot realistically determine that any particular
6 undocumented (person) will in fact be deported until after
7 deportation proceedings have been completed. It would of
8 course be most difficult for the [governmental authority] to
9 justify a denial of [a benefit] to a [person] enjoying an
10 inchoate federal permission to remain. Plyler v. Doe, 457 U.S.
11 202, 226, 72 L. Ed. 2d 786, 102 S. Ct. 2382 (1982) (citations
12 omitted).

13 **19.** In the past, there was legislative participation in
14 some of the adjustment procedures we have discussed, such as
15 suspension of deportation and relief under the Displaced
16 Persons and Refugee Relief Acts. But these were primarily
17 devices for administrative dispensation, with a requirement
18 for legislative scrutiny when administrative action was
19 favorable. However, the constitutionality of such legislative
20 participation is now doubtful to the extent that such
21 legislative approval is required before an administrative
22 decision can become final, See Chadha v. INS, 462 U.S. 919
23 (1983).

24 **20.** For many years there were increasing requests for
25 direct intervention by Congress in individual cases. When all

1 other roads have been explored, when administrative relief has
2 been denied and court action has proved fruitless, many
3 persons have sought to avert the impact of the immigration law
4 by special legislation. The introduction of a private
5 immigration relief bill does not in itself block removal. But
6 in many cases it will induce the administrative authorities
7 voluntarily to stay their hands until Congress can act, (For a
8 holding that court relief may be available if such a stay is
9 denied, see Knauff v. McGrath, 181 F.2d 839 (2d Cir. 1950).)

10 **21.** Private immigration bills serve an array of functions.
11 They allow for notions of fairness and equity to mitigate the
12 frequently harsh operation of general immigration standards.
13 More importantly, the proliferation of private bills of
14 similar substance may expose a current law's deficiencies and
15 spur Congress to amend the law of general applicability.
16 Private bills have provided impetus for changes in the
17 national origins quota system and exclusion laws, and have
18 highlighted systemic gender inequities under naturalization
19 laws, Robert Hopper & Juan Osuna, Remedies of Last Resort:
20 Private Bills and Deferred Action, 97-06 Immigr. Briefings 2-3
21 (June 1997). Conversely, general immigration laws may promote
22 private bills. Restrictive immigration measures like the
23 Illegal Immigration Reform and Immigrant Responsibility Act of
24 1996 (IIRAIRA), Illegal Immigration Reform and Immigrant
25 Responsibility Act of 1996 (IIRAIRA) (enacted as Division C of

1 Omnibus Consolidated Appropriations Act, 1997, Pub. L. No.
2 104-208, 110 Stat. 3009) often prove overinclusive in
3 practice, thus generating a bevy of private bill requests from
4 individuals with sympathetic claims, Hopper & Osuna, supra
5 note 3, at 1.

6 **22.** Statistics illustrate the ebb and flow in the
7 popularity of private immigration bills. In the 78th Congress
8 (1943-1944), 163 private immigration bills were introduced;
9 only twelve were enacted, Immigration and Naturalization
10 Service, Dep't of Justice, 1992 Statistical Yearbook of the
11 Immigration and Naturalization Service 178 (1993) (Table 79).
12 Thereafter the number of bills and enactments rose sharply. In
13 the 90th Congress (1967-1968), 7,293 private immigration bills
14 were introduced and 218 were enacted. In the 91st Congress
15 (1969-1970), 6,266 private immigration bills were introduced
16 and 113 were enacted, Office of Immigration Statistics, Dep't
17 of Homeland Security, 2002 Yearbook of Immigration Statistics
18 212 (2003) (Table 55) [availableatuscis.gov/graphics/shared/](http://availableatuscis.gov/graphics/shared/aboutus/statistics/ybpage.htm)
19 aboutus/statistics/ybpage.htm (last visited July 13, 2004).
20 These bills accounted for almost half of all bills, both public
21 and private, introduced in Congress during those years, See
22 Sidney Rawitz, In the Hands of Congress: Suspension of
23 Deportation and Private Bills, 57 Interpreter Releases 76, 80
24 (Feb. 14, 1980).

25 **[2]--Legislative Procedure**

1 **23.** A person wishing to have a private relief bill
2 introduced must, of course, persuade a member of Congress that
3 he or she has a meritorious claim for relief. If the Senator
4 or Representative believes the matter merits legislative
5 consideration, the member of Congress introduces the private
6 bill for the relief of a named individual or individuals. The
7 bill is referred to the Judiciary Committee of the house of
8 Congress in which it is introduced. Most such bills are
9 introduced in the House of Representatives. Note, Private
10 Bills In Congress, 79 Harv. L. Rev. 1684, 1688 (1966).

11 **[a]--House Private Bills Procedures**

12 **24.** Since there are no statutory guides for such
13 legislation, the standards for judgment are not fixed.
14 However, the Subcommittee on Immigration and Claims of the
15 House Judiciary Committee has published rules of procedure for
16 private immigration legislation. Subcomm. on Immigration and
17 Claims, House Judiciary Comm., 107th Cong., Rules of Procedure
18 and Statement of Policy for Private Immigration Bills (2001)
19 [hereinafter House Rules of Procedure], available at
20 www.house.gov/judiciary/documents.htm (last visited July 12,
21 2004). All requests for a private immigration bill must begin
22 with a letter to the chairman of the subcommittee detailing
23 the relevant facts of the case and must include "all
24 pertinent documents." Id. at 1. These should include the
25 basic biographical information of all proposed beneficiaries,

1 close relatives, and interested parties, information detailing
2 all entries and departures to and from the United States, the
3 status of all pending petitions and immigration proceedings,
4 occupational histories of proposed beneficiaries, and a signed
5 statement from each beneficiary stating that he or she
6 requests the relief sought by the private bill. Id. Most
7 importantly, the request must include an exposition detailing
8 how failure to provide for the desired relief will result in
9 ``extreme hardship'' to the beneficiary. Id.

10 **25.** The showing above exposes the fact that the Plaintiff
11 has the absolute right to seek relief through Congress and
12 seeking such relief is a legal matter under the Fifth
13 Amendment, not only a right of petition under the First
14 Amendment.

15 **26.** Plaintiff claims that he resubmitted the documents for
16 mailing on or about the date of June 20, 2007 and Immigration
17 and Customs Enforcement again refused to mail the documents
18 and this prevented the Plaintiff from gaining due process in
19 his immigration proceeding in that the Plaintiff had a right
20 to seek the relief from Congress under the law and that right
21 was deliberately taken away from him by Immigration and
22 Customs Enforcement

23 **PREJUDICE FROM THE NOT MAILING OF THE DOCUMENTS**

24 **27.** Plaintiff is a citizen of the United States who is
25 held by ICE. He has a right to seek all available relief from

1 the continuing confinement and he has the right to seek relief
2 through the act of Congress. Plaintiff, because he has been
3 denied the opportunity to send the letters to Congress, is
4 caused to spend an overlong time in custody. First,
5 Immigration and Customs Enforcement, was wrong for not sending
6 the first batch of letters and pretending that he had. Next,
7 Immigration and Customs Enforcement, was wrong for preventing
8 the mailing of the second bunch of letters that were to be
9 sent to Congress and this has caused the Petitioner's claim
10 not to be heard.

11 **28.** A private bill is provided for in 8 CFR, see INS v
12 Jong Ha Wang, 450 U.S. 139, 140 and n.1 (1981). Immigration
13 and Customs Enforcement, responded that it was "unreasonable"
14 to approve those copies despite the fact that Plaintiff has an
15 absolute right to reach the senators and the Congressmen and
16 women under two amendments, the Due Process Clause of the
17 Fifth Amendment as well as the New Mexico State Laws and New
18 Mexico Constitution. provides the right to reach the senators
19 and the Congress and the First Amendment right to petition
20 provides the right to reach the Senators and the Congress.
21 Yet, Immigration and Customs Enforcement, proclaimed that it
22 was "unreasonable" to seek such copies and did not approve
23 them. When the copies were gained from other sources,
24 Immigration and Customs Enforcement, failed to mail the
25 letters on two different occasions that they were presented to

1 him for mailing. Because Immigration and Customs Enforcement,
2 failed to mail the letters to Congress and wished to place
3 restrictions on the mailing of letters to Congress, he
4 violated my clearly established rights to petition and to seek
5 due process through a private bill from Congress.

6 **CLAIM TWO**

7 **ILLEGAL OPENING OF LEGAL MAIL/CONFIDENTIAL MAIL**

8 **29.** Plaintiff claims that Immigration and Customs
9 Enforcement, has either personally opened legal/confidential
10 mail, or authorized the opening of confidential legal mail to
11 the detriment of the Plaintiff's rights.

12 **30.** In particular, the Plaintiff claims that Immigration
13 and Customs Enforcement, has authorized and approved the
14 opening of correspondence, the copying of correspondence, the
15 reading of correspondence where that correspondence was headed
16 to the Seattle Times Newspaper and legal entities.

17 **31.** Plaintiff claims that he has a right to communicate
18 with a reporter or the newspaper in a confidential letter.
19 Moreover, he claims that he has the right to such privacy
20 given by ICE National Standards which state, "Indigent
21 detainees will be permitted to mail the following at
22 government expense: 1. All correspondence related to a legal
23 matter, including correspondence to a legal representative,
24 potential legal representative and any court." Further, the
25 Standards state, "Special correspondence" is the term for

1 detainees' written communications to or from private attorneys
2 and other legal representatives, government attorneys, judges,
3 courts, embassies and consulates, the president and vice
4 president of the United States, members of Congress, the
5 Department of Justice (including INS and Office of the
6 Inspector General), the U.S. Public Health Service,
7 administrators of grievance systems, and representatives of
8 the news media."

9 **32.** The ICE Standards state, specifically, "Staff shall
10 neither read nor copy special correspondence." The fact is
11 that the Plaintiff will establish the fact that his special
12 correspondence was opened by Immigration and Customs
13 Enforcement,, under Immigration and Customs Enforcement's
14 authorization, and Immigration and Customs Enforcement, knew
15 or should have known that it was illegal and unconstitutional
16 to breach the security of that instrument which was opened,
17 and copied and then used by Immigration and Customs
18 Enforcement, for his own purposes.

19 **33.** In fact, ICE National Standards state, "Outgoing
20 special correspondence will not be opened, inspected or read."
21 Here, Immigration and Customs Enforcement, went further than
22 opening the mail, they authorized the copying of the mail and
23 reading of the mail and using of the mailed letter in a
24 disciplinary against the Plaintiff.
25

1 **34.** Immigration and Customs Enforcement has also been
2 involved in the opening of another piece of mail directed to
3 the Australian Embassy. This mail was directed to the
4 Australian Embassy and the mail was opened, the document
5 removed and photocopied and used as an exhibit by ICE before
6 the Immigration Court. Plaintiff claims that he was violated
7 of his due process rights by the opening of his mail directed
8 to the Australian Embassy.

9 **35.** Moreover, the Defendant may claim that he gained the
10 document when it was presented for copying by the Plaintiff,
11 but, even if the document was presented for copying, the
12 Defendant has no right under the law to read that material
13 where it is clearly a legal document on its face without it
14 being read. The application to the Australian Embassy was a
15 form seeking asylum in Australia away from the United States
16 because of the problems he has been put through by the ICE
17 agency. ICE has absolutely no right to read legal material
18 presented for copying. In Wolff v. McDonnell, 418 U.S. at 575-
19 77, the Court upheld a prison regulation that allowed staff to
20 inspect, but not to read, inmates' legal mail. Lower courts
21 have held that legal mail may not be read nor copied without
22 the permission of the inmate. Jensen v. Klecker, 648 F.2d
23 1179, 1182 (8th Cir. 1981); Ramos v. Lamm, 639 F.2d 559, 582
24 (10th Cir. 1980), cert. denied, 450 U.S. 1041, 68 L. Ed. 2d
25 239, 101 S. Ct. 1759 (1981); Guajardo v. Estelle, 580 F.2d

1 748, 758-59 (5th Cir. 1978). The Ninth Circuit has previously
2 held that violation of confidentiality in legal documents
3 presented for copying violates the meaningful access to the
4 Courts, Casey v Lewis, 43 F. 3d 1261 (Overruled on other
5 grounds, Lewis v. Casey, 518 U.S. 343, 358 n.6, 116 S. Ct.
6 2174, 135 L. Ed. 2d 606 (1996). Although the matter was
7 overruled by the Supreme Court, it was not overruled on the
8 merits of the claims, but on the lack of standing to proceed
9 with the claims. In any case, the Supreme Court has previously
10 stated that the mail should be confidential and the copies
11 should be confidential.

12 **36.** Yet, the Plaintiff claims that Immigration and Customs
13 Enforcement has gone further than this in its violations of
14 the rights of the Plaintiff. In particular, the Plaintiff
15 complains to the fact that he, of all 1,000 plus detainees at
16 NWDC receives special treatment for his copy requests. First,
17 the Plaintiff alleges and will prove that Immigration and
18 Customs Enforcement, has allowed its staff to keep copies of
19 the legal papers submitted by the Plaintiff for copying. He
20 has allowed the reading of the papers, and he has allowed the
21 faxing of the papers to counsels adverse to the Plaintiff and
22 this will all be proven through discovery material held by ICE
23 and Geo Group Inc.

24 **37.** Plaintiff has been injured by the continuing actions
25 of Immigration and Customs Enforcement, where the documents

1 the Plaintiff prepares are practically obsolete once he
2 provides a document to be copied because the documents are
3 faxed to counsels by Immigration and Customs Enforcement and
4 the counsels act on the content of the documents and this
5 leaves the Plaintiff at a marked disadvantage.

6 **38.** Plaintiff has been bothered by stressful conditions of
7 confinement where he must present the materials to Immigration
8 and Customs Enforcement to gain copies and must succumb to the
9 illegal actions of Immigration and Customs Enforcement.

10 **39.** Plaintiff has not been the lone person whose mail is
11 tampered with by Immigration and Customs Enforcement, and
12 whose copies confidence are violated by Immigration and
13 Customs Enforcement,. One detainee, in particular, Damion
14 Bromfield's legal mail was opened by Geo acting under
15 Immigration and Customs Enforcement,'s guidance.

16 **40.** Other detainees have routinely been denied their right
17 to confidential mail when it is legal mail. Plaintiff
18 specifically claims and alleges that the Grievance files of
19 Geo and ICE will show the fact of the violations of law.

20 **41.** On the date of January 10th, 2008 ICE refused to mail
21 letters to the embassies where the letters were seeking travel
22 documents so the Plaintiff could leave the United States and
23 leave his indefinite confinement. Those letters were presented
24 for mailing and ICE refused to mail those letters even while
25 they were asserting in court that the Petitioner had refused

1 to comply with mandates that he assist in the attempt to gain
2 documents from embassies. This denied due process to the
3 Petitioner.
4

5
6 **COPIES OF LEGAL DOCUMENTS**

7 **42.** Plaintiff cannot complain enough of the lack of
8 confidentiality in his legal documents. First, the documents
9 that are printed off the Computer are read by the librarian
10 under direction by Immigration and Customs Enforcement.

11 **43.** Second, the documents that are submitted for copying
12 are read by the Warden under guidance and direction by
13 Immigration and Customs Enforcement.

14 **44.** Third, the documents are copied under the Direction of
15 Immigration and Customs Enforcement, for the personal purposes
16 of Geo and ICE.

17 **45.** Fourth, the documents submitted for copies are used by
18 ICE and Geo for their own purposes including faxing documents
19 to their counsels, and using the documents in "Declarations"
20 to the District Court and the Immigration Court.

21 **46.** Plaintiff claims that it violates his right to
22 meaningful access where the Defendants have copied his legal
23 documents for their own purposes, used those documents for
24 their own purposes, and faxed those documents to their
25 counsels for their own purposes.

1 **47.** Plaintiff claims that when the documents printed in
2 the library is read by the librarian it is a violation of the
3 right to confidentiality.
4

5
6 **DENIAL OF RIGHT TO SEEK UNITED STATES PASSPORT**

7 **48.** Plaintiff claims that he has a right to seek a United
8 States Passport and such right exists under the Fifth
9 Amendment as well as the New Mexico State Laws and New Mexico
10 Constitution. Due Process clause where there is an immigration
11 matter at issue.

12 **49.** In other words, the Plaintiff claims that the United
13 States Passport is the best evidence of United States
14 Citizenship.

15 **50.** Under [8 C.F.R. § 204.1(g)(1)] the following is true
16 that the seeking and gaining of a United States Passport is
17 the ultimate defense against removal as it establishes
18 citizenship:

19 (g)--Evidence of petitioner's United States citizenship or lawful
20 permanent residence.--

21 (1)--Primary evidence.

22 A petition must be accompanied by one of the following:

23 (i)--

24 A birth certificate that was issued by a civil authority and that
25 establishes the petitioner's birth in the United States;

1 (ii)--

2 An unexpired United States passport issued initially for a full ten-
3 year period to a petitioner over the age of eighteen years as a
4 citizen of the United States (and not merely as a noncitizen
5 national);

6 (iii)--

7 An unexpired United States passport issued initially for a full five-
8 year period to the petitioner under the age of eighteen years as a
9 citizen of the United States (and not merely as a noncitizen
10 national);"

11
12 **51.** Plaintiff claims that he had accomplished the act of
13 gaining his birth certificate from the County Recorder of Los
14 Angeles, and needed to present such certificate to the United
15 States Passport Agency or the United States District Court but
16 was prevented from doing so by Immigration and Customs
17 Enforcement, and this denied the Plaintiff his due process
18 under the law.

19 **52.** And the Plaintiff claims that Immigration and Customs
20 Enforcement, knew that the Plaintiff had a right to due
21 process on his claims and has a right to seek such a passport
22 but Immigration and Customs Enforcement, prevented the
23 Plaintiff from seeking and gaining such a passport and denied
24 the due process of the Plaintiff in the Immigration Hearing
25 where the Plaintiff was not able to produce the passport and,

1 as a direct result of Immigration and Customs Enforcement,'s
2 actions, was denied relief from an order of removal.

3 **53.** Plaintiff specifically claims that he is a citizen of
4 the United States and his privilege includes the right to seek
5 a United States passport for any purpose including a challenge
6 in the immigration proceeding and that Immigration and Customs
7 Enforcement, violated that right and denied him due process by
8 doing so in violation of the Fifth Amendment.

9 **VIOLATION OF THE RIGHT TO CALLS & CONFIDENTIAL CALLS TO COUNSELS**

10 **54.** Plaintiff claims that since his arrival at the
11 Northwest Detention Center he has been denied the right, by
12 Immigration and Customs Enforcement,, to make calls &
13 confidential calls to counsels and that has injured him by
14 violating his rights under the Fifth Amendment. He has been
15 denied the ability to call the persons listed in Exhibit A.

16 **55.** In particular, the Plaintiff claims that Immigration
17 and Customs Enforcement has recorded telephone calls to
18 counsels, sanctioned the listening in to calls to counsels,
19 and that he has violated the ICE policy regarding the
20 confidentiality of calls to counsels.

21 **56.** In particular, the Plaintiff claims that Immigration
22 and Customs Enforcement has sanctioned the use of confidential
23 information gained from listening into privileged calls and
24 has sanctioned the use of that information to injure the
25 Plaintiff.

1 **57.** In particular, the Plaintiff claims that on one
2 occasion he was speaking to a Newspaper Outlet, the Seattle,
3 Times when the call was listened in to by persons who had been
4 allowed to do so by Immigration and Customs Enforcement.

5 **58.** Plaintiff claimed that the contents of the
6 conversation were then used to perform an investigation
7 against the Plaintiff and the Plaintiff was punished by
8 persons who were supported by Immigration and Customs
9 Enforcement.

10 **59.** Plaintiff claims that the listening person learned
11 information that was privileged and this led directly to the
12 opening of a piece of mail that was directed to the newspaper,
13 and that the mail was taken and not returned to the Plaintiff
14 and Plaintiff was punished.

15 **60.** Plaintiff claims that Immigration and Customs
16 Enforcement has prevented the Plaintiff from calling counsels
17 confidentially where such confidential calls to counsels were
18 needed in order to gain representation of the Plaintiff in his
19 immigration matter.

20 **61.** Plaintiff specifically claims that ICE has a policy
21 where the calls to counsels are to be confidential and
22 Immigration and Customs Enforcement violated that policy by
23 failing to allow the Plaintiff to call the persons listed on
24 Exhibit A confidentially.
25

1 **62.** Plaintiff claims that every number listed on Exhibit A
2 are legal calls where confidentiality is necessary to reach
3 the courts and Immigration and Customs Enforcement denied such
4 confidentiality where the Plaintiff needed such
5 confidentiality in order to discuss his case needs.

6 **63.** In particular, Plaintiff specifically claims that
7 Immigration and Customs Enforcement did specifically admit in
8 litigation that calls made on the telephone have been recorded
9 and monitored.

10 **64.** Plaintiff specifically claims that prior to admitting
11 that the calls on the telephone had been monitored and
12 recorded, Immigration and Customs Enforcement and his staff
13 specifically stated to the Plaintiff that the telephones were
14 not monitored and the calls were not recorded.

15 **65.** Plaintiff claims for the period of from August of 2005
16 through June of 2007 the phone calls at the Northwest
17 Detention Center have been recorded and monitored by
18 Immigration and Customs Enforcement while he maintained
19 publicly and in writing that the calls were not being
20 monitored.

21 **66.** Plaintiff claims that Immigration and Customs
22 Enforcement specifically violated ICE policy by recording and
23 monitoring the telephone calls where he should have known, and
24 did know those calls were to legal counsel.
25

1 **67.** In particular, the Plaintiff claims that Immigration
2 and Customs Enforcement knew and was fully aware that ICE
3 Policy in the ICE National Standards state that a court order
4 shall be required to monitor and record telephone calls to
5 counsels and other privileged persons and Immigration and
6 Customs Enforcement deliberately violated that Standard.

7 **68.** Plaintiff claims injury in the form of the fact that
8 he has been unable to gain counsel to represent his
9 immigration matter because he has been unable to speak
10 confidentially to persons who would be counsels and was unable
11 to speak to counsels who are often in places where they cannot
12 make visits to the Center for personal visitations and
13 consultations.

14 **69.** Plaintiff specifically claims that the Plaintiff has
15 no alternative to the telephone confidentiality as the
16 Defendant also opens legal mail directed to entities that he
17 knows to be legal or privileged and reads, copies and uses the
18 contents for his own purposes in violation of clearly
19 established law.

20 **DENIAL OF RIGHT TO ACCESS COUNSEL THROUGH TOLL FREE NUMBERS**

21 **70.** The Plaintiff claims that Immigration and Customs
22 Enforcement has denied him the right to access counsel who
23 advertise using toll free numbers.

24 **71.** Plaintiff claims that most counsels who advertise
25 using the television or printed medium utilize toll free

1 numbers, but the Plaintiff has been prevented from accessing
2 those counsels where the calls are toll free and this had
3 denied him access to counsel and to the courts.

4 **72.** Moreover, the Plaintiff claims that Immigration and
5 Customs Enforcement has violated his right to gain information
6 from governmental agencies where that information can be used
7 in his immigration matter by failing to have toll free calling
8 on the telephone lines at Northwest Detention Center.

9 **73.** Plaintiff claims that he has been denied access to
10 such Agencies such as United States Citizen and Immigration
11 Services, United State Bureau of Immigration and Custom
12 Enforcements, United States Armed Forces, United States Social
13 Security Administration, United States Department of Health
14 Education and Welfare, where all such Agencies has information
15 that would assist him in his matter by providing information.

16 **DENIAL OF DUE PROCESS BY DENIAL OF DOCUMENTS AND VIOLATING**
17 **SUBPOENAS**

18 **74.** Plaintiff claims that Immigration and Customs
19 Enforcement has violated his due process rights by denying him
20 access to documents held by his office where those documents
21 were important to the Plaintiff's case (s).

22 **75.** In particular, the Plaintiff claims that in
23 litigations he has the right to discover items held by
24 Immigration and Customs Enforcement thorough the use of
25 subpoenas.

1 **76.** Plaintiff claims that Immigration and Customs
2 Enforcement has prevented the Plaintiff from gaining access to
3 such documents as follows: GEO Custody File held by Geo for
4 ICE; ICE Grievances filed by the Plaintiff, Kites filed by the
5 Plaintiff with ICE, Copies of the file of Marva Rudder, Copies
6 of the File of Joanne Rudder, and other items such as E-Mails
7 sought in discovery in the Immigration matter and the other
8 legal matters.

9 **77.** Plaintiff claims that Immigration and Customs
10 Enforcement has set out to deny him due process in his legal
11 matters by withholding the items above to prevent the
12 Plaintiff from succeeding in his legal matters and this marks
13 a violation of the rights of the Plaintiff through obstruction
14 of Justice by Immigration and Customs Enforcement.

15 **78.** Plaintiff claims that he has been denied due process
16 by Immigration and Customs Enforcement where Immigration and
17 Customs Enforcement has deliberately withheld evidence that he
18 knew was to be used in the Courts against the Service or
19 against Immigration and Customs Enforcement personally.

20 **79.** Plaintiff specifically claims that he needed the files
21 of Marva Rudder and Joanne Rudder because those files would
22 lead to evidence showing that the Plaintiff is not Wayne
23 Rudder, but Immigration and Customs Enforcement has failed to
24 provide those files even though he was personally in
25 possession of those files at one point in time where he showed

1 the Plaintiff the files and taunted the Plaintiff with the
2 files.

3 **80.** Plaintiff claims that the files of Joanne Rudder and
4 Marva Rudder would have provided testimony from the Rudders
5 that the Plaintiff is not their sibling and that would have
6 been sufficient to release the Plaintiff who has maintained
7 that he merely used the Rudder identity for financial gain
8 once upon a time and that he is not Rudder but a person who
9 was born Vincent Daniel Hopper.

10 **81.** Plaintiff claims that Immigration and Customs
11 Enforcement has violated his due process by denying access to
12 the files.
13
14

15 **DISCRIMINATION AND RETALIATION**

16 **82.** Plaintiff claims that Immigration and Customs
17 Enforcement has retaliated against him and discriminated
18 against him by denying him the access to the legal library on
19 a par as other persons in the facility and this denial of
20 library access has been specifically to discriminate against
21 the Plaintiff on the basis of sex, color, sexual orientation,
22 intelligence, and capability.

23 **83.** In particular, the Plaintiff claims that he has legal
24 deadlines that are always imminent.
25

1 **84.** In particular, the Plaintiff claims that he has been
2 in the library with other persons who do not have legal
3 deadlines.

4 **85.** Plaintiff claims that the Policy states that the
5 persons with legal deadlines will be given priority to access
6 legal resources over those without deadlines.

7 **86.** Yet, the Plaintiff claims that over the past two years
8 he has been discriminated against by Immigration and Customs
9 Enforcement who has granted persons without legal deadlines
10 more time in the library against the Plaintiff who has shown
11 Immigration and Customs Enforcement verifiable legal deadlines
12 and this has injured the Plaintiff by causing him to not have
13 sufficient time to respond to pleadings or to file actions in
14 the Courts.

15 **87.** Plaintiff claims that Immigration and Customs
16 Enforcement set out to discriminate against the Plaintiff on
17 the basis of sex, color, sexual orientation, intelligence, and
18 capability.

19 **88.** Plaintiff claims that Immigration and Customs
20 Enforcement set out to discriminate against the Plaintiff on
21 the basis of sex, color, sexual orientation, intelligence and
22 capability specifically to inhibit the Plaintiff's ability to
23 reach the Courts.

24 **89.** In particular, Plaintiff claims that while other
25 persons without legal deadline routinely receive fifteen or

1 more hours in the library for their own work, Plaintiff has
2 received only ten hours in the library when he has numerous
3 deadlines and the Plaintiff claims that Immigration and
4 Customs Enforcement actions were purely to prevent the access
5 to the Courts.

6
7 **DENIAL OF ACCESS TO THE STATE COURTS**

8 **90.** Plaintiff claims that Immigration and Customs
9 Enforcement has denied him access to the State Courts by
10 failing to have the forms that are necessary to gain access to
11 the State Courts.

12 **91.** Plaintiff claims that he has attempted to file actions
13 in the State Courts only to have the Court demand summons, a
14 form that is used by the State Courts, but the Plaintiff,
15 despite numerous requests to Immigration and Customs
16 Enforcement, was denied access to the Summons and has lost an
17 opportunity to seek relief in the State Courts which violates
18 his right to seek redress under the First Amendment.

19 **92.** Plaintiff claims that he wished to file suit against
20 Mc Hatton, an employee under Immigration and Customs
21 Enforcement and he was prevented from doing so.

22 **93.** Plaintiff claims that he wished to file suit against
23 Geo Employees and ICE Employees but was denied any opportunity
24 to do so due to the lack of forms and lack of information in
25 the Legal Library ran by Immigration and Customs Enforcement.

1 **94.** Plaintiff claims that he has a right under the First
2 Amendment and the Fifth Amendment as well as the New Mexico
3 State Laws and New Mexico Constitution to reach the State
4 Courts of New Mexico as the place Geo Care has a place of
5 business which is in New Mexico, but Immigration and Customs
6 Enforcement denied that right.

7 **95.** Plaintiff specifically claims that he gained the right
8 to file the suit by the Washington District Courts, but the
9 Courts specifically sought that summons be presented to the
10 Court for the Court to process the suit, but Immigration and
11 Customs Enforcement, after numerous requests denied the
12 Plaintiff access to the Courts by failing to have forms for
13 the State Courts.

14 **96.** In particular, the Plaintiff claims that Immigration
15 and Customs Enforcement has access to the Summons and access
16 to all State Court forms but deliberately prevent the
17 Plaintiff from having such access to prevent the Plaintiff
18 from accessing the Courts.

19 **97.** Plaintiff claims that Immigration and Customs
20 Enforcement specifically sought to prevent the Plaintiff from
21 accessing the Courts of the State in order to confine the
22 Plaintiff to only claims in the Federal Court because ICE has
23 more influence over the federal judges than over the state
24 judges.
25

1 **98.** In particular, the Plaintiff claims that had he been
2 able to bring the suits he has filed in federal court in the
3 state court system, he would have prevailed in every one of
4 the suits where magistrates are not beholden to the system.

5 **99.** Plaintiff claims that he wished to bring suits in the
6 State courts challenging his conditions of confinement and his
7 confinement as the State Court Judges could also order his
8 relief from conditions or release from confinement, but
9 Immigration and Customs Enforcement has prevented the
10 Plaintiff from gaining access to the State Courts of
11 Washington.

12 **100.** In particular, the Plaintiff claims that Immigration
13 and Customs Enforcement has also prevented access to the State
14 Courts by failing to have any information in the library that
15 would allow the Plaintiff to know his rights under the State
16 Law.

17 **101.** In particular, the Plaintiff claims that the ICE
18 National Standards state that ICE shall obey and follow the
19 Washington Administrative Manual and the Plaintiff has been
20 unable to access that Manual to know what the manual states
21 his rights are.

22 **102.** Plaintiff claims that he has been unable to know what
23 his rights are under the State of Washington and New Mexico
24 Constitutions as the library does not have a copy of that
25 document.

1 **103.** Plaintiff claims that he has been unable to know what
2 his rights are under the formative state laws of the State of
3 New Mexico and the process of vindicating those rights because
4 the library does not have the state laws in the library.

5 **104.** Plaintiff specifically claims that Immigration and
6 Customs Enforcement has been requested, by the Plaintiff, on
7 numerous occasions to gain the law regarding the State of New
8 Mexico but has failed to do so.

9 **105.** Plaintiff claims that only in June of 2007, after two
10 years of requests, Immigration and Customs Enforcement gained
11 the criminal law for the State of New Mexico¹ where that law
12 is/was needed to allow persons to challenge their criminal
13 conviction as part of their immigration matters.

14 **106.** Plaintiff claims that Immigration and Customs
15 Enforcement prevented him from gaining a copy of the American
16 Correctional Association Standards where Immigration and
17 Customs Enforcement has copies of that document and where that
18 document provides specific rights to detainees, and, by so
19 doing, the Defendant has prevented the Plaintiff from knowing
20 his rights under the law.

21 **107.** Plaintiff claims that the American Correctional
22 Standards has information therein that deal with the
23 conditions of confinement and the National Standards that ICE
24

25 ¹ Codes of New Mexico

1 and Immigration and Customs Enforcement **must** follow through
2 contract with the ACA, but Immigration and Customs Enforcement
3 has hidden those facts by failing to have a copy of the ACA
4 standards in the library accessible to detainees. He has also
5 failed to honor requests issued in litigation to provide the
6 copy of those standards and that has denied the Plaintiff due
7 process in his claims against Immigration and Customs
8 Enforcement.

9 **108.** Plaintiff claims that Immigration and Customs
10 Enforcement set out to deny the Plaintiff due process in his
11 claims against Immigration and Customs Enforcement and ICE by
12 deliberately failing to have any access to civil cases in the
13 library.

14 **109.** In particular, the Plaintiff claims that Immigration
15 and Customs Enforcement has gutted the discs in the library
16 where the civil cases should be, and, as a direct result, the
17 Plaintiff has no access to any of the civil cases in the
18 library where those cases are the leading cases in the law.
19 Cases that are needed in order to file suit are not evident.
20 Laws that are needed to file suit are not evident. In
21 particular, the Plaintiff claims that he had sought to file a
22 criminal successive petition in the Court of Appeals but none
23 of the cases dealing with successive appeals could be accessed
24 because they had been gutted from the discs.
25

1 **110.** Plaintiff specifically claims that the Plaintiff
2 sought to learn information that would assist him in filing
3 actions in the Court and properly defending actions in the
4 District Court but he was unable to do so because the cases
5 were not available.

6 **111.** Plaintiff claims that when the Defendant provides
7 pleadings to the Plaintiff they are never without numerous
8 citations to law that the Plaintiff cannot reach.

9 **PATTERN OF DENIAL OF DUE PROCESS**

10 **112.** Plaintiff claims that Immigration and Customs
11 Enforcement has entered into a pattern of denial of due
12 process by allowing subordinates to engage in ruthless
13 violations of the due process of the Plaintiff by punishing
14 the Plaintiff for reasons that have no basis in fact and no
15 foundation in law.

16 **113.** In particular, the Plaintiff claims that he is a
17 Fourth Amendment Detainee and cannot be punished absent due
18 process, but Immigration and Customs Enforcement has engaged
19 in a pattern of allowing the Plaintiff to be punished by his
20 subordinates where the Plaintiff does not warrant such
21 punishment and where the denial of due process is intrinsic to
22 the violation of the rights.

23 **114.** In particular, the Plaintiff claims that during the
24 "hearings" given by Immigration and Customs Enforcement he is
25

1 never allowed to call and question witnesses. And that
2 violates his due process under the Fifth Amendment.

3 **115.** In particular, the Plaintiff claims that he is never
4 given all documents that are relied upon by Immigration and
5 Customs Enforcement and his underlings and this violates the
6 due process of the Plaintiff under the Fifth Amendment.

7 **116.** In particular, the Plaintiff claims that he is never
8 granted due process in the hearings held by Immigration and
9 Customs Enforcement and the proceedings are kangaroo courts
10 that are designed to punish the Plaintiff without due process.

11 **117.** In particular, the Plaintiff claims that he has been
12 sent to segregation where the ICE National Standards
13 specifically state that Segregation is a place for persons who
14 have violated certain institutional rules, none of which the
15 Plaintiff has violated.

16 **118.** Plaintiff claims that Immigration and Customs
17 Enforcement has presided over a facility where false reports
18 are written and then upheld by his underlings and those false
19 reports are written specifically to injure the Plaintiff.

20 **119.** Plaintiff claims that Immigration and Customs
21 Enforcement has presided over a facility where the underlings
22 have taken the Plaintiff's personal property in the form of
23 the Plaintiff's Bible and his commissary items worth 40.20
24 where such taking was punitive and a denial of due process.
25 Moreover, Immigration and Customs Enforcement failed to answer

1 the Tort Claims presented to his office on this issue and he
2 has refused to process that Tort Claim despite the fact that
3 he has held it for an overlong period.

4 **120.** Moreover, the Plaintiff claims that Immigration
5 and Customs Enforcement has conspired to deny due process
6 by failing to provide the Plaintiff with a copy of the
7 grievance with the Tort Claim attached thereto which was
8 presented to Immigration and Customs Enforcement.

9 **121.** It is the same with every grievance with a Tort Claim
10 attached where the Plaintiff sought to exhaust his administrative
11 remedy. Immigration and Customs Enforcement has held the
12 grievances and have not returned the Tort claims made in those
13 grievances and this violates due process.

14 **122.** Then, after failing to provide answers to the
15 grievances, where each grievance also made demand for a sum
16 certain under the FTCA, Immigration and Customs Enforcement
17 secreted the documents and prevented the Plaintiff from
18 gaining copies of the documents and failed to adjudicate the
19 factor of the FTCA Claims that were individually made to ICE
20 and the United States.

21 **WRONGFUL IMPRISONMENT**

22 **123.** Plaintiff claims that United States, Immigration and
23 Customs Enforcement have wrongfully imprisoned the Plaintiff
24 from the period of time from March 6, 2006 through the present
25

1 and their actions violate the due process clause of the United
2 States Constitution.

3 **124.** In particular, the Plaintiff claims that he provided a
4 certified copy of his birth certificate to Immigration and
5 Customs Enforcement, Garman on the date of March 6, 2006.
6 This Birth Certificate established the fact that the
7 Plaintiff's name is Vincent Daniel Hopper and that he was born
8 in Lynwood City, Los Angeles County on the date of 8-27-60.
9 Upon receipt of the document, Immigration and Customs
10 Enforcement began actions that would hide the fact of the
11 Plaintiff's identity and his nationality.

12 **125.** In particular, Immigration and Customs Enforcement hid
13 the birth certificates. They seized the birth certificates and
14 hid them from the Plaintiff so the Plaintiff could not use the
15 certificates in his pleadings to the District Court and to the
16 United States Passport Agency.

17 **126.** Then, Immigration and Customs Enforcement set out to
18 wrongfully imprison the Plaintiff by refusing to properly
19 investigate the facts of the Plaintiff's identity and instead
20 sought to manufacture evidence to disprove that identity.

21 **127.** Immigration and Customs Enforcement did not speak to
22 the Plaintiff's parents even though Immigration and Customs
23 Enforcement has the tools² with which to make such contact
24

25 ² Choice Point etc.

1 with the Plaintiff's parents while the Plaintiff does not have
2 such tools.

3 **128.** Plaintiff has three brothers, Stephen, and James where
4 all three are Hoppers and all three have been involved with
5 the law and their DNA is on file with the Department of
6 Justice. Immigration and Customs Enforcement failed to gain
7 information from the DNA banks of the DOJ when such would have
8 established conclusively that the Plaintiff is a Hopper and
9 not a Rudder.

10 **129.** Immigration and Customs Enforcement did not
11 investigate the circumstances of the Plaintiff's accidents in
12 the past where such accidents led to brain injury to the
13 Plaintiff when the Plaintiff informed Immigration and Customs
14 Enforcement of that fact.

15 **130.** Instead of trying to establish the Plaintiff's
16 identity, Immigration and Customs Enforcement engaged in a
17 corruption of the facts. They found one person who has used
18 variations of the Plaintiff's name in the past, has never used
19 the entire and complete name of the Plaintiff and settled on
20 that person being Vincent Daniel Hopper solely based upon the
21 fact that the person is "light complected" and Plaintiff's
22 father is White.

23 **131.** Immigration and Customs Enforcement discounted the
24 fact that the person answered to the name Darryl Yates.
25

1 **132.** Immigration and Customs Enforcement did not search
2 police records for the identification of Darryl Yates in order
3 to link the person and Darryl Yates as being one person.
4 Instead, Immigration and Customs Enforcement used the fact
5 that they had found this one person who used variations of the
6 Plaintiff's name to justify their belief that Darryl Yates is
7 the real Vincent Daniel Hopper while the Plaintiff is Wayne
8 Rudder.

9 **133.** Immigration and Customs Enforcement had at their
10 access the files of Joanne Rudder and Marva Rudder where those
11 A Files are numbered 34-316-599 and 34-316 601. Instead of
12 using those files to locate Marva Rudder and Joanne Rudder so
13 they could gain information from those files to use either
14 against the Plaintiff or on the Plaintiff's behalf,
15 Immigration and Customs Enforcement took those files and
16 secreted those files. They failed to provide the files when
17 they were sought to provide the files to the Plaintiff. The
18 provision of the files would have provided evidence to the
19 Plaintiff to present that evidence to the Court that the
20 Plaintiff is a citizen of the United States, or, at the very
21 least, is not a non-citizen named Rudder. Immigration and
22 Customs Enforcement denied due process.

23 **134.** In short, Plaintiff claims that Immigration and
24 Customs Enforcement failed to adequately investigate the
25 circumstances and jumped to the conclusion that the Plaintiff

1 was Rudder despite the Plaintiff's loud protestations that he
2 is not Rudder.

3 **135.** Plaintiff provided evidence to Immigration and Customs
4 Enforcement that Plaintiff's DNA is on file with the
5 Department of Justice in the identity of Vincent Daniel
6 Hopper. Plaintiff provided evidence that the Plaintiff's
7 fingerprints are listed in the Department of Justice as
8 Vincent Daniel Hopper. Yet, Immigration and Customs
9 Enforcement continued the incarceration of the Plaintiff
10 despite the fact that the Plaintiff is a citizen of the United
11 States and should not ever be impacted by Immigration and
12 Customs Enforcement .

13 **136.** Plaintiff claims that Immigration and Customs
14 Enforcement continued the incarceration of the Plaintiff
15 because they were vindictive and because they were retaliating
16 for the many suits filed against ICE and INS by the Plaintiff
17 where those suits have had substantive differences in the
18 operation of the agency.

19 **137.** Plaintiff claims that Immigration and Customs
20 Enforcement continued the incarceration of the Plaintiff to
21 punish the Plaintiff.

22 **138.** Plaintiff claims that the fact that Immigration and
23 Customs Enforcement and Garman ha attempted to shift custody
24 of the Plaintiff on March 14, 2006 is indication that they are
25

1 aware that the Plaintiff is not an alien but is a citizen of
2 the United States.

3 **139.** Plaintiff claims that Immigration and Customs
4 Enforcement and Garman acted deliberately to keep the
5 Plaintiff behind bars by denying the Plaintiff access to
6 information where that information would provide a showing
7 that the Plaintiff is a citizen of the United States.

8 **140.** Plaintiff claims that Immigration and Customs
9 Enforcement and Garman were deliberate in attempting to cement
10 that the Plaintiff was not Hopper instead of learning whether
11 or not the Plaintiff is Rudder.

12 **141.** Plaintiff claims that when he applied to the USCIS for
13 an N 600-Declaration of Citizenship, Immigration and Customs
14 Enforcement and Garman placed the Plaintiff into the USCIS
15 computers as being a person named Wayne Ricky Elson Rudder
16 where they had specific information that the Plaintiff was not
17 Rudder.

18 **142.** In particular, the Plaintiff claims that he had a due
19 process right that Garman and Immigration and Customs
20 Enforcement and their staff would use their entire resources
21 to determine the facts of citizenship, not just to attempt to
22 disprove citizenship where there is no such proof that would
23 disprove citizenship: 1. There are no fingerprints for Rudder
24 when Rudder entered the United States. 2. There are no
25 fingerprints for Rudder shortly when he arrived in the United

1 States. 3. There are no prints for Rudder when he was born. 4.
2 There is no DNA on file anywhere for Rudder. 5. A fingerprint
3 can only prove the identity of a person if the fingerprint is
4 taken at birth or close to birth.

5 **143.** In other words, the Plaintiff claims that fingerprints
6 identify only the person who gave the fingerprints and not the
7 identity that person was born with. Yet, Garman and
8 Immigration and Customs Enforcement used the fact that the
9 Plaintiff had been printed as Rudder, had testified as Rudder,
10 to find that the Plaintiff was Rudder despite the fact that
11 the Plaintiff provided evidence to Garman and Immigration and
12 Customs Enforcement that specifically showed that he was not
13 Rudder.

14 **144.** Plaintiff claims that he has been wrongly imprisoned
15 for the past 16 months until July 5, 2007 and his earnings
16 potential is 6,667.40 monthly given his last earnings record.
17 This means that the defendants have denied the Plaintiff
18 earnings in the amount of 106,678.36 over the past sixteen
19 months, but the Plaintiff goes further. In particular, the
20 Plaintiff claims that the entire period is compensable and
21 actionable in that the United States Embassy in Trinidad
22 established that the Plaintiff was not a Trinidadian in 1993
23 and returned the Plaintiff to the United States in 1994 after
24 29 days in Trinidad. Thus, the Defendants should have known
25 that the Plaintiff is not a person who was born in Trinidad,

1 but an American and that all and any detention is punitive
2 making the entire span of time to be actionable for specific
3 damages in the amount of loss production for the entire months
4 of custody by the Defendants when they know the Plaintiff is a
5 citizen of the United States.

6
7 **145.** Plaintiff is not close to his mother, father or siblings,
8 but the Plaintiff claims that the continued incarceration by the
9 Defendants, when they know that the Plaintiff is a citizen, is
10 such that it has robbed him of valuable time to make up with his
11 mother and father and his siblings.

12 **146.** The mother and father of the Plaintiff are both closing
13 in on life's final chapter and their time on this earth is
14 limited. The Plaintiff has been robbed of the time he needs in
15 order to seek rapprochement with his family, this is especially
16 egregious when the Plaintiff has informed the Defendants of his
17 family, his mother and his father and the fact that he needs to
18 be able to see his family.

19 **147.** Plaintiff claims that he has been alienated from his
20 family by the actions of the Defendants.

21 **148.** Plaintiff claims that the actions of Immigration and
22 Customs Enforcement have resulted in alienation of affection.
23 Because of the confinement of this citizen, Plaintiff may never
24 be able to have his chance to consort with his mother and father
25 before they expire. This is unpardonable.

1 DENIAL OF COUNSEL AND MAILING LETTERS TO ENTITIES

2 **149.** Plaintiff specifically claims that the Defendants have
3 denied him the right to counsel by their actions with the
4 telephone and with their actions in opening confidential
5 communications, failing to mail confidential communications and
6 by their failure to allow the Plaintiff to speak confidentially
7 with counsels.

8 **150.** Plaintiff claims that under the First Amendment and the
9 Fifth Amendment as well as the New Mexico State Laws and New
10 Mexico Constitution he has a right to access counsel and to gain
11 such counsel. That under the ICE National standards he has a
12 right to speak confidentially with those counsels and putative
13 counsels and the failure of the Defendants to grant him the
14 opportunity to gain counsel is a violation of his constitutional
15 rights.

16 **151.** In particular, the Plaintiff claims that on several
17 occasions the Plaintiff complained about the video that is being
18 played by ICE called, Know Your Rights Video. Plaintiff claims
19 that Immigration and Customs Enforcement and Garman are aware
20 that the video contains false information as it was first
21 published in the year 1997 and they know that the information on
22 the video is no longer credible. When the Plaintiff complained,
23 Immigration and Customs Enforcement and Garman failed to correct
24 the problem. When the Plaintiff submitted letters directed to the
25 Florence Project in Arizona, the makers of the video, those

1 letters were not mailed by Immigration and Customs Enforcement
2 and Garman. Instead, they held and continue to hold those
3 letters. This marks not only a denial of due process but denial
4 of access to counsel as the Florence Project is made up of
5 lawyers who assist persons in the detention of ICE.

6 **152.** Plaintiff specifically claims that he was writing to
7 complain of the content of the video and to seek legal assistance
8 from the Florence Project but his mail was returned several times
9 by Immigration and Customs Enforcement and the letters were not
10 mailed because Immigration and Customs Enforcement realized and
11 feared that the letters were speaking to the incorrectness of the
12 informational video being played daily, two times a day with its
13 false information.

14 **153.** Plaintiff claims that he had a right to complain to the
15 Florence Project and he had a right to reach the Florence Project
16 for assistance in his case where he is a citizen of the United
17 States and Immigration and Customs Enforcement has violated that
18 right.

19 **154.** Plaintiff further claims that when he realized that the
20 problems at the Northwest Detention Center were not going to be
21 solved by Immigration and Customs Enforcement, Plaintiff prepared
22 seventeen letters directed to the members of the higher hierarchy
23 of the Department of Justice.

24 **155.** Plaintiff claims that he placed those letters into the
25 receptacles with sufficient postage upon those letters.

1 **156.** Plaintiff claims that Immigration and Customs Enforcement
2 failed to mail those letters and it is presumed that Immigration
3 and Customs Enforcement opened those letters.

4 **157.** In one of those letters was a tort claim against the
5 United States because of Immigration and Customs Enforcement's
6 behavior.

7 **158.** Plaintiff claims that Immigration and Customs Enforcement
8 denied him due process by failing to mail the letters to the
9 persons that they were designated to go and this violated the due
10 process of the Plaintiff under the Fifth Amendment.

11 **159.** Plaintiff claims that he has a legal right to contact the
12 Attorney General, any members of his staff, and all members of
13 the ICE hierarchy because those are the custodians of the
14 Plaintiff and Immigration and Customs Enforcement violated that
15 right by failing to mail the letters.

16 **160.** Plaintiff claims that Plaintiff made administrative
17 grievances about the fact that Immigration and Customs
18 Enforcement was allowing the air waves of FCC authorized
19 commercial stations to be blocked by in-house devices that were
20 attached to the televisions.

21 **161.** Plaintiff claimed that he complained that the devices
22 were set where they would block the programming of Black Public
23 Radio and the Black Station, 92.5 F.M.

24 **162.** Plaintiff claimed that when he informed Immigration and
25 Customs Enforcement that he was going to the Federal

1 Communications Commission to complain and to the Washington
2 Utilities and Transportation Commission Immigration and Customs
3 Enforcement waited until the mail was submitted for mailing and
4 the mail was never mailed even though the records were created as
5 if the mail was sent. The officials at the Agencies never
6 received the mail.

7 **163.** In particular, the Plaintiff alleges that a governmental
8 agency will respond to any mail sent to that agency, either in
9 the form of a form letter or in a general statement or a specific
10 response, but the fact that Immigration and Customs Enforcement
11 failed to mail the letters means that the agency never got any
12 opportunity to respond and did not respond, and none of the
13 letters were ever returned.

14 **164.** Immigration and Customs Enforcement failed to mail the
15 letters designated as legal mail to the FCC and the UTC because
16 he desired to ensure that the Plaintiff did not receive due
17 process on his complaint. Moreover, the Plaintiff alleges that
18 the Plaintiff has a right to make a complaint to the FCC and the
19 UTC and that falls under the First and Fifth Amendment of the
20 United States Constitution as well as the New Mexico State laws.
21 Plaintiff claims that he has a right to seek redress and that
22 right is ensured by the United States and The State of New
23 Mexico.

24 **165.** Plaintiff claims that Immigration and Customs Enforcement
25 prevented him from making his complaints simply to create a

1 material benefit so that he could continue blocking access to the
2 Black Stations on the radio dial by using devices which are
3 believed illegal under the FCC and UTC rules and regulations.

4 **166.** Further, the Plaintiff claims that the Defendant was
5 presented with 220 letters for mailing to a law firm's associates
6 and partners where that firm was Latham and Watkins. Petitioner
7 claims that the letters were not mailed by the Defendant, but the
8 letters were destroyed by the Defendant and not mailed.

9 **167.** Similarly, letters were mailed to O'Melveny and Myers,
10 another law firm seeking assistance with the Petitioner's case.
11 The letters were not mailed by the Defendant, a violation of due
12 process and denial of the right to counsel.

13 **DENIAL OF A NOTARY**

14 **168.** Plaintiff claims that Immigration and Customs Enforcement
15 has denied him the access to a notary and the denial to a notary
16 has been a denial of access to the courts.

17 **169.** In particular, the Plaintiff claims that the Defendant
18 knows the Plaintiff has utilized numerous names including Duane
19 Rudder, Antolin Andrews, Antolin Andrew Marks and Vincent Daniel
20 Hopper.

21 **170.** The Plaintiff claims that Immigration and Customs
22 Enforcement knew that the Plaintiff legally changed his name to
23 Antolin Andrew Marks on March 16, 2006, a final name change.

24 **171.** Defendant received a certified copy of the document and
25 gave a copy to Immigration and Customs Enforcement.

1 **172.** Plaintiff claims that the Defendant, Immigration and
2 Customs Enforcement, received a request from the Plaintiff for
3 notarization of a document where such document sought that the
4 document be notarized to allow the Plaintiff to enter the
5 Superior Courts of North Carolina to seek redress against the
6 Compass Group.

7 **173.** Plaintiff specifically claims that the Court required
8 the notarized document to initiate suit.

9 **174.** In particular, Plaintiff claims that Immigration and
10 Customs Enforcement failed to grant the notary on the issue when
11 he was granting notary services to every other detainee in the
12 facility and he did not provide the Plaintiff notary services
13 simply because he wished to prevent the filing of the suit.

14 **175.** In particular, the Plaintiff claims that the Defendant,
15 Immigration and Customs Enforcement, has been active in
16 preventing due process by failing to return the grievances which
17 has the document attached to it where the document sought
18 notarization of the document for filing in the North Carolina
19 Courts.

20 **176.** Further, the Plaintiff claims that the Defendant,
21 Immigration and Customs Enforcement, has been denying the
22 Plaintiff access to the Superior Court of Los Angeles because he
23 has denied the access to a notary to notarize the document the
24 Plaintiff sought to file in that court where such document was a
25 Living Will and Last Testament.

1 **177.** Plaintiff claims that he presented the document for
2 notarization and Immigration and Customs Enforcement refused to
3 have the document notarized when he was notarizing documents for
4 all other detainees.

5 **178.** The injury is the fact that the Plaintiff cannot file the
6 things he wishes to file in the Courts and Immigration and
7 Customs Enforcement has prevented those filings above.

8 **179.** In particular, the Plaintiff claims that he has been
9 discriminated against by Immigration and Customs Enforcement who
10 allows other persons to gain notary services but has prevented
11 the Plaintiff by punishing the Plaintiff by preventing such
12 access to the Plaintiff where the Plaintiff sought notary
13 services.

14 **180.** In particular, the Plaintiff claims that he has been
15 prevented from accessing the Courts because Immigration and
16 Customs Enforcement has acted to prevent the access, the specific
17 access the Plaintiff wished to have and this is because
18 Immigration and Customs Enforcement acted to injure the Plaintiff
19 rights.

20 **FAILURE TO SUPERVISE AND TRAIN**

21 **181.** Plaintiff claims that the failure to supervise and
22 failure to train also resulted in the taking of 40.20 cents of
23 his commissary items by untrained employees who were untrained
24 and unsupervised by Immigration and Customs Enforcement.
25

1 **182.** In particular, the Plaintiff claims that Immigration and
2 Customs Enforcement has a duty to enforce the contract and to
3 ensure the protection of the Plaintiff's property from the
4 employees of Geo, but Immigration and Customs Enforcement has
5 failed to supervise and has failed to train those employees who
6 violate ICE Standards and violate the law in their actions in
7 injuring the Plaintiff by the taking of the Plaintiff's property.

8 **183.** Plaintiff claims that the failure to train and supervise
9 is manifested in the manner in which the individual employees
10 routinely skirt their own written rules and policies.

11 **184.** Plaintiff claims that the failure to train and supervise
12 is manifested in the manner in which the individual employees
13 routinely break the laws of the United States.

14 **185.** In particular, the Plaintiff claims that he was punished
15 by Charles Mc Burney, under the direction of Immigration and
16 Customs Enforcement for using the computers in the library to
17 prepare a letter to Neil Clark, a protected activity under the
18 Constitution as Neil Clark is a defendant in several suits filed
19 by the Plaintiff. Furthermore, Neil Clark is the direct custodian
20 of the Plaintiff, but when complained against, Immigration and
21 Customs Enforcement indicated that Neil Clark is not a privileged
22 person for communication and the Plaintiff's letter to Neil Clark
23 was not protected by the law. As a result, the Plaintiff was
24 forced to spend seven days in Segregation as punishment for this
25

1 protected activity due to the lack of training and lack of
2 supervision by Immigration and Customs Enforcement.

3 **186.** Plaintiff claims that the lack of training and lack of
4 supervision by the Defendant caused the Plaintiff injury in his
5 religious beliefs in that the Plaintiff's religious beliefs
6 command that he take his meals separately, but Immigration and
7 Customs Enforcement allowed the employees he is to supervise deny
8 the Plaintiff the right to eat separately and thus violated the
9 Plaintiff's religious freedom.

10 **187.** Plaintiff claims that the lack of supervision has allowed
11 the employees to conspire against the Plaintiff with impunity and
12 such conspiracy was known by Immigration and Customs Enforcement
13 and he failed to curb the conspiracy or prevent the conspiracy
14 against the Plaintiff's rights.

15 **188.** In particular, the Plaintiff claims that Immigration and
16 Customs Enforcement knew or should have known that letters to
17 newspapers are sacrosanct and should not be tampered with. He
18 knew that letters to Congress and the Senate should not be
19 tampered with. He knew that letters to the ICE and DHS were
20 sacred and should not be tampered with. He knew that letters to
21 the embassy should not be tampered. Hell, he even knew that the
22 legal documents that are printed in the library where they are
23 produced by detainees are sacred and should not be read, copied
24 or tampered with but he caused all of the above to be read,
25 copied and tampered with by his employees, mostly for his own

1 material benefit because he and Garman used the proceeds of those
2 documents they invaded in their own particular needs.

3 **189.** Plaintiff claims that Immigration and Customs Enforcement
4 knew that the documents submitted for copying by the Plaintiff
5 should not be copied and should not be faxed to his counsels, but
6 he allowed his staff to do just that. It is specifically pleaded
7 that the failure to train and failure to supervise resulted in
8 the denial of meaningful access to the Courts as Immigration and
9 Customs Enforcement not only allowed the reading of legal
10 material the Plaintiff submitted for copying, but allowed those
11 documents to be copied for Geo's use by their faxing the
12 documents to their lawyers, and allowed the documents to be kept
13 and stored by Geo in boxes in the warehouse where they were
14 accessible to Geo and ICE employees in violation of the
15 Plaintiff's rights to confidentiality.

16 **190.** Plaintiff claims that the lack of training and
17 supervision by Immigration and Customs Enforcement caused the
18 Plaintiff injury through the fact that when the Plaintiff
19 directed mail to defendants, such as Immigration and Customs
20 Enforcement, with proper instructions to mail the letters First
21 Class Mail, or, in the alternative, alternative delivery to the
22 personal box of the defendant.

23 **191.** Plaintiff claims that his rights have been injured by the
24 failure to train and supervise and through deliberate action to
25 deny his due process in that Immigration and Customs Enforcement

1 has approved THE GEO GROUP INC.'s employees mishandling of the
2 Plaintiff's mail. It is the position of the Plaintiff that the
3 mail must be placed in the First Class mail when it is
4 designated.

5 **192.** It is further the Plaintiff's claim that the First Class
6 mail, must actually be given to the Post Office Person who
7 arrives to collect the mail.

8 **193.** It is the Plaintiff's claim that the only alternative to
9 such mailing is to hand the letter directly to the person it is
10 directed to or to place it into a box where it is general
11 practice that the mail will be received by the person, such as
12 Immigration and Customs Enforcement.

13 **194.** What Immigration and Customs Enforcement has done and has
14 encouraged is to allow Geo Employees to not place the letters
15 into the mail, to return the letters and they then demand that
16 the Plaintiff place the First Class Mail into the ICE box in the
17 unit where that box is susceptible to opening by detainees.

18 **195.** It is the Plaintiff's claim that when he mails documents
19 to any person, including Immigration and Customs Enforcement,
20 the mail is to either be placed into the U.S. Mails as directed,
21 or alternatively placed into the mailbox of Immigration and
22 Customs Enforcement or the other person the Plaintiff seeks to
23 mail the letter to **especially** because these are legal defendants.
24
25

1 **196.** Plaintiff claims that his due process has been violated
2 by the failure to mail his documents and such failure is a source
3 of recurring stress upon the Plaintiff.

4 **197.** In fact, the Plaintiff claims that the American
5 Correctional Association's Recommended Standards include a clause
6 that allows for confidential communications with Immigration and
7 Customs Enforcement, Clark, or any other custodian.

8 **198.** Moreover, ICE National Standards include a clause that
9 allow for confidential detainee communications with Immigration
10 and Customs Enforcement and any other person who works in the
11 facility where that person has a significant impact ability over
12 the Plaintiff's conditions of confinement or confinement.

13 **199.** Plaintiff claims that his rights have been violated by
14 the deliberate returning of his mail, repeatedly, by Immigration
15 and Customs Enforcement and through approval by Immigration and
16 Customs Enforcement.

17 **200.** Plaintiff claims that the recurring activities with his
18 legal mail is done specifically and solely to harass, molest and
19 punish the Plaintiff for maintaining legal actions in the Courts.
20 In particular, the Plaintiff claims that the mail is returned
21 repeatedly over and over again only to cause him to be late in
22 his filings, to be late in his letters to legal entities and to
23 prevent him from communicating with entities in a timely manner.

24 **201.** Plaintiff claims that Immigration and Customs Enforcement
25 has copies of the grievances and Tort Claim demands that were

1 filed in conjunction with all the matters herein but has failed
2 to provide the Plaintiff with a copy of those documents in
3 violation of the Freedom of Information Act and the Privacy Act
4 and he maintains those copies of the documents solely to prevent
5 the Plaintiff from receiving the documents to use in legal cases
6 that are pending and in this case.

7 **202.** Exhibits to be provided during discovery will show that
8 Immigration and Customs Enforcement has prevented copies of the
9 documents that would provide for a showing of his denial of due
10 process on all the items raised here.

11 **203.** Exhibits to be provided during discovery will show a
12 document that shows that Immigration and Customs Enforcement's
13 failure to train and supervise caused Geo employees to open,
14 read, and copy a letter that was received by the facility for the
15 Plaintiff. Such letter was from Angela Gonzalez, a person who was
16 expressing her thanks for the Plaintiff's assistance to her
17 sixty-two year old father. Immigration and Customs Enforcement
18 authorized the opening, reading, copying and using of that
19 letter, without ever giving the Plaintiff a copy of the letter or
20 envelope to keep.

21 **204.** Immigration and Customs Enforcement construed the letter
22 as being payment for legal services instead of a gift as it was.
23 The letter stated, "Albino Guardiola has asked me to send this to
24 you for helping him with his paperwork." Nothing in the letter
25 stated that the Plaintiff had solicited this money. Nothing in

1 the letter indicated that the Plaintiff had charged Guardiola for
2 this money, yet Immigration and Customs Enforcement allowed the
3 Plaintiff's money to be taken by Geo. **The money was not returned**
4 **to Angela Guardiola-Gonzalez.** The money order was just missing.
5 However, on the date of 7-10-07 the same money order arrived in
6 the mail to the Plaintiff. There was no return address and the
7 post mark of the envelope was from Tacoma, indicating that the
8 letter had been mailed in Tacoma. Angela Gonzalez resides in
9 Yakima, some two or three hours away. Thus, it is improbable that
10 Angela Guardiola Gonzales drove the distance and deposited the
11 money order in the mail in Tacoma and what is more believable is
12 that someone at the Northwest Detention Center placed the money
13 order into the envelope at Tacoma. In any case, Immigration and
14 Customs Enforcement should never have intercepted that money
15 order for any purpose.

16 **205.** Moreover, once the money order was received, Immigration
17 and Customs Enforcement then held the money order and cashed the
18 money order without the specific endorsement of the Plaintiff. In
19 effect, the Plaintiff claims that Immigration and Customs
20 Enforcement stole the forty dollars and used it for his own
21 purposes because he cashed the money order without endorsement
22 and illegally used the money order, just like he had a previously
23 received thirty dollar money order where there were specific
24 instructions that no money order should be cashed without the
25

1 signature endorsing the money order. In effect, Immigration and
2 Customs Enforcement committed theft.

3 **206.** When the Plaintiff sought to gain the numbers off the
4 money order to lodge a complaint against Immigration and Customs
5 Enforcement with the United States Post Office, Immigration and
6 Customs Enforcement would not allow the Plaintiff to get the
7 serial numbers off the document, an act of obstruction of due
8 process and justice.

9 **207.** Similarly, the Plaintiff, on or about in February of 2007
10 received a money order from his friend, Lyla Paul, who utilized
11 the pseudonym Amber Felix because she did not want to be bothered
12 by ICE. The money order was for 04. for a subscription to the Los
13 Angeles Times. When the money was received, Immigration and
14 Customs Enforcement questioned he receipt of the money order.
15 Then, when the Plaintiff sought that they send all money held by
16 Immigration and Customs Enforcement to his counsel, Keith Jordan,
17 that money order was missing from the set of money orders. Only
18 later did Immigration and Customs Enforcement state that the
19 money order was in their "evidence locker." These are not police
20 agents. Why is the Plaintiff's money order in an "evidence
21 locker."

22 **208.** Further, the Plaintiff then wrote a letter to Guardiola
23 explaining certain things to her including the fact that he could
24 not accept money for working for Guardiola. That letter was never
25